

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

JAMES C. HULCE, *individually and on
behalf of a class of all persons and entities
similarly situated*,

Plaintiff,

v.

ZIPONGO, INC. d/b/a FOODSMART,

Defendant.

Case No. 2:23-cv-00159-LA

**JOINT MOTION FOR MODIFICATION OF DISPOSITIVE MOTION BRIEFING
SCHEDULE**

Plaintiff James C. Hulce (“Plaintiff”) and Defendant Zipongo, Inc. d/b/a Foodsmart (“Foodsmart” or “Defendant”) hereby move for a modification of the briefing schedule for the parties to file their briefs with respect to Defendant’s dispositive motion. The Parties jointly state as follows in support:

1. This case is a putative class action in which Plaintiff alleges violations by Defendant of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227.

2. Pursuant to the Parties’ joint motion, the Court set a briefing schedule on Defendant’s Motion for Summary Judgment following the close of individual discovery as set forth below:

October 31, 2023	Summary Judgment Motion Due
December 8, 2023	Opposition to the Summary Judgment Motion Due
December 22, 2023	Reply in Support of the Summary Judgment Motion Due

ECF 25.

3. At Defendant's request, the parties then requested an extension to the briefing schedule as follows:

November 7, 2023	Summary Judgment Motion Due
December 15, 2023	Opposition to the Summary Judgment Motion Due
January 5, 2023	Reply in Support of the Summary Judgment Motion Due

ECF 26.

4. Plaintiff has diligently worked to prepare his opposition brief but due to counsel's schedule and unexpected commitments to other cases needs additional time to prepare an appropriate response.

5. Accordingly, and in light of the intervening Christmas holiday, the Parties thus jointly ask the Court to extend the parties' deadlines to file their briefs related to Defendant's dispositive motion as follows:

December 29, 2023	Opposition to the Summary Judgment Motion Due
January 19, 2023	Reply in Support of the Summary Judgment Motion Due

6. This Joint Motion is not offered for the purposes of delay or any other undue purpose. Nor will this joint request prejudice either party. Indeed, both Parties agree to this stipulated modification and believe it will promote the expeditious resolution of this case. *See* Fed. R. Civ. P. 6(b) (stating the Court has power to extend deadlines for good cause)

Accordingly, the Parties jointly request that the Court modify the briefing deadlines with respect to Defendant's Summary Judgment Motion as set forth above.

Dated: December 12, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2023, I electronically filed the foregoing document in the United States District Court for the Eastern District of Wisconsin, with notice of same being electronically served by the CM/ECF system, to all attorneys of record.

/s/ Jonathan P. Misny
Jonathan P. Misny